



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/733,847

12/08/2000

Liang C. Dong

ARC 2644 R1

2029

30766 7590 07/27/2006

DEWIPAT INCORPORATED
P.O. BOX 1017
CYPRESS, TX 77410-1017

EXAMINER

FAY, ZOHREH A

ART UNIT

PAPER NUMBER

1618

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1618

Claims 53, 55 and 58-74 are presented for examination.

The remarks filed on April 26, 2006 have been received and entered.

Claims 53, 55 and 58-74 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Rudinic et al. (U.S. 5,952,004) in view of Ekenhoff et al. (4,692,326) and further over Al-Razzak et al. (U.S. Patent 5,559,158) for the reasons set forth on pages 2-4 of the office action of January 19, 2006 and the following reasons. Al-Razzak et al. teach the use of the claimed anti-viral agents in combination with the claimed poly sorbates, such as polyoxyethylene (20) sorbitan monolaurate in a pharmaceutical formulation in a capsule form. See the abstract, column 2, and column 5, lines 30-44. The above reference teaches the claimed antiviral agents in combination with the claimed surfactants in a pharmaceutical formulation. The use of the term "consisting" does not create a patentably distinct composition, considering that claim 53 also uses "comprising". Furthermore, the prior art clearly teaches the use of the claimed designated poly sorbates in combination with the claim-designated antiviral agents in a pharmaceutical formulation. The new use for an old composition does not create a patentably distinct composition in the absence of evidence to the contrary. Applicant's attention is drawn to *In re Dillon*, 16 USPQ 2nd 1897 at 1900 (CAFC 1990). The court sitting in banc ruled that the recitation of a new utility for an old composition does not render that composition new.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zohreh A. Fay whose telephone number is (571) 272-0573. The examiner can normally be reached on Monday to Friday 9:30-6:00.

Art Unit: 1618

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Z.F

